

UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

Diane Wilson

Soc. Sec. No. xxx-xx-8743
Mailing Address: 607 Ashford Lane,
Durham, NC 27713-

Case No. 05-83916- -
Chapter 13

Debtor.

Retroactive Motion to Incur Indebtedness

NOW COMES the Debtor, by and through the undersigned attorney, pursuant the Confirmation Order and local rule and custom, retroactively requesting permission to incur indebtedness, and also requesting approval of an attorney fee, and in support thereof, shows unto the Court as follows:

1. Debtor has filed a petition for relief in bankruptcy under Chapter 13 of the United States Code on October 15, 2005.
2. The Debtor Was approved by Prudential Financial to incur aa loan against her 401k, and without prior court authorization, obtained such loan on or about July 27, 2007.
3. This motion is being made so that the Debtor may incur indebtedness to help her family move.
4. The terms of the new loan are as follows:
 - a. Amount of the new loan: \$3,040.00
 - b. Interest rate for the new loan: 13.112%
 - c. Monthly payment for the new loan: \$250.10
 - d. Length of the new loan: 12 months
5. A copy of the loan Truth and Lending statement, showing projected adjustments, disbursements and net proceeds, is attached herewith.
6. The Debtor will be able to afford this new loan for the following reasons:
 - a. Lowering expense and cost of living raise.
7. That the Debtor believes the proposed loan to be in her best interest of the Debtor to incur indebtedness for the following reason(s)
 - a. To assist her niece move
8. The proposed indebtedness will not affect the ability of the Debtor to successfully complete the Chapter 13 plan.
9. The proposed indebtedness does not adversely affect the interests of the bankruptcy estate.
10. That \$250.00 is the reasonable value of the services provided and to be provided by the

undersigned attorney for counseling the Debtor concerning the proposed new loan, gathering information necessary to draft this application, drafting and processing this motion and the proposed order, interfacing with the seller(s) and the financier for the purpose of answering questions and concerns regarding the effect of the bankruptcy on the new indebtedness, extra follow-up to make sure that the ensuing order is obtained and transmitted to the Debtor in a timely fashion to avoid delaying unnecessarily the projected closing of the loan. It is anticipated, based on many past experiences, that it will take approximately 2 hours of attorney time to attend to said details. The \$250.00 also takes into account the **substantial risk** inherent in all loan situations that undersigned attorney will perform these services and not get paid because, for one reason or another, the loan falls through.

WHEREFORE, the Debtor respectfully prays that the Court retroactively allow the Debtor to incur said indebtedness, approve and, allow payment of the attorney fee through the Debtor's Chapter 13 plan , and grant such other and further relief as to this Court seems just and proper.

Dated: October 2, 2007

LAW OFFICES OF JOHN T. ORCUTT, P.C.

/s/Edward Boltz

Edward Boltz

North Carolina State Bar No.:23003

6616-203 Six Forks Road

Raleigh, N.C. 27615

(919) 847-9750